

REMARKS/ARGUMENTS

The Applicant notes with appreciation the telephone interview with the Examiner on November 17, 2005, where agreement was reached with regard to differences between the Wall reference cited in the Office Action of August 26, 2005 and the present invention, and where language to positively recite these differences was proposed, as will be discussed in more detail below.

In the specification, paragraph numbers [0015], [0017], [0019], [0020], [0022], [0024] and [0026] were amended to correct grammatical errors, and paragraph [0018] was amended to reflect language used in the claims.

Claims 12-32 are presently in this application. Claims 1-11 have been cancelled without prejudice.

The Examiner has objected to the specification for failing to provide proper antecedent basis for the claimed subject matter.

The Applicant has provided a new set of claims which is fully supported by the specification. The reference to "lifting bars" and "first and second end portions" in cancelled claim 1 has been replaced by reference to "lifting arms" and "first and second ends" in new claim 12, which is supported in the specification beginning at paragraph [0017]. It is submitted that the objection has been overcome.

The Examiner has objected to cancelled claim 3 because of an informality, and offered a suggested correction.

The Applicant has accordingly provided new claim 14 with the Examiner's suggested correction. It is submitted that the objection has been overcome.

The Examiner has rejected claims 1-6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Applicant has provided a new set of claims which provides proper antecedent basis for and positively recites all claimed elements and therefore overcomes this rejection.

The Examiner has rejected claims 1-11 under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5,048,153, issued September 17, 1991 to Michael R. Wall et al., hereinafter Wall.

The Applicant has accordingly cancelled claims 1-11, and has provided a new set of claims to more fully distinguish over the Wall reference. New independent claims 12 and 23 have been amended to incorporate wording similar to that which the Examiner suggested to distinguish over the Wall reference in the telephone interview.

The Applicant highlights some of the differences between the Wall reference and the present invention before discussing the new set of claims.

The Wall reference discloses a spa cover lift mechanism for a spa cover (13) that includes a coil spring (51). The coil spring (51) does not assist in the lifting of the spa cover (13), but on the contrary, as indicated in column 4, lines 43-66 it prevents impingement of the spa cover (13) on the torque tube (25):

"In operation, starting from a closed position, the spa cover 13 is folded open, if the spa cover is a hinged cover of the type illustrated in FIGS. 1A-C. Thereafter, cover removal is accomplished by grasping the spa cover 13, preferably midway between the struts and pushing the cover outwardly, i.e., toward the side of the spa along which the torque tube is located. As the spa cover is pushed, it will pivot about the upper edge of the spa 11 that underlies the cover 13, as shown in FIG. 1B; and the compression struts 21 will rotate about both the upper and lower hinge mechanisms 24 and 23. When the compression struts 21 reach a vertical position (FIG. 1C), the plane of the spa cover 13 will have rotated to a vertical position substantially in line with the vertical struts. At this point, the bolts 55 and 61 will impinge on one another,

stopping further rotation. When in this position, the compression struts 21 are in their most compressed position, i.e., the coil spring 51 is most compressed. Impingement of the cover 13 on the torque tube 25 is prevented by the force produced by the coil spring 51, which is controlled by the position of the collar 49. Excessive spring force, which would raise the cover well above the torque tube, is controlled by the same mechanism, i.e., the position of the collar 49."

The present invention discloses a spa cover 12, a spa housing 10 and a spa cover remover comprising a pair of spa cover remover assemblies 14. Each spa cover remover assembly includes a lifting arm 18, a spring 38 and a pivotal connection between the lifting arm 18 and the spa housing 10. The spring biases the lifting arm for pivotation about the pivotal connection, thereby assisting in the raising of the spa cover, as indicated in paragraph [00024]:

"When the spa cover remover is in use, and the spa cover 12 is in its closed or lowered position, as shown in Figure 1, the lifting arm 18 is in its lowered or closed, inclined position, as shown in Figures 1 and 4. In this case, as can be seen from Figure 4, the spring 38 is under tension and, therefore, exerts a biasing force on the lifting arm 18, tending to raise the lifting arm 18 into its opened position, in which the lifting arm 18 is shown in Figures 2 and 3. The amount of the tension in the spring 38 can be adjusted by rotation of the bolt 52."

It is evident that the coil spring (51) does not assist whatsoever in the lifting of the cover (13), in contrast to the spring 38 of the present invention, which does assist in lifting the lifting arm 18 and therewith the spa cover 12.

This feature of the present invention is recited in new independent claim 12 as follows:

"spring means connected with said first ends of said lifting arms and biasing

said lifting arms, whereby said spring means assists the pivotation of said lifting arms to the raised position to raise the spa cover engagement structure and therewith said spa cover; and”

and in new independent claim 23 as follows:

“springs biasing said spa cover lifting arms, whereby said springs assist said lifting arms about said pivotal connections to raise said spa cover engagement structures from a lowered position towards a raised position; and”

The use of the verb “assist” was discussed in the telephone interview with the Examiner, and it was believed that this more fully distinguished the present invention over the cited reference.

It is therefore submitted that new claims 12 and 23 are patentably distinguishable over the Wall reference, and are therefore allowable.

Claims 13-17 and 24-27 are dependent from claims 12 and 23 respectively, and it is therefore submitted that they are allowable.

New claim 18 is similar to old claim 7, and further includes:

“a pair of elongate housings extending at an angle to said lifting arms;”

Nowhere in the Wall reference are there elongate housings extending at an angle to lifting arms. It is therefore submitted that claim 18 is patentably distinguishable over the Wall reference, and therefore allowable.

New claims 19-22 are dependent from claim 18, and it is therefore submitted that they are allowable.

New independent claim 28 distinguishes over the Wall reference by reciting:-

- a) that the springs extend at an angle relative to the lifting arms;
- b) pivotal connections between the lifting arms and their supports and
- c) the pivotal connections being between the first and second ends of the lifting arms.

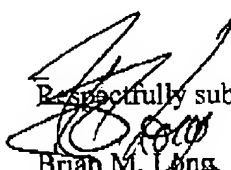
These features all assist the raising of the arms into their raised positions.

It is therefore respectfully submitted that claim 28 is patentably distinguishable over the cited reference, and therefore allowable.

New claims 29-32 depend from claim 28 and it is submitted that they are therefore allowable.

It is now believed the objections have been overcome the application is in order for allowance.

Respectfully submitted,

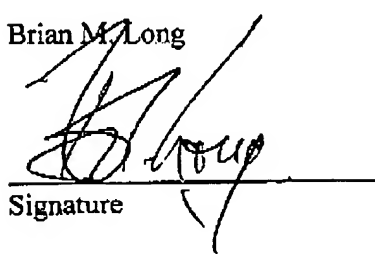

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P188.221

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